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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of:

JOSHUA D. STALLER

Serial No.: 09/939,927

Filed: August 27, 2001

For: METHOD AND SYSTEM FOR AUTOMATICALLY  
SCANNING TELEVISION CHANNELS

Attorney Docket No.: 2001-0074 (ATTB 0106 PUS)

Group Art Unit: 2614

Examiner: Lee, Michael

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

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Sir:

This is an Appeal Brief for the appeal from the final rejection of claims 1-8, 11-12, 15-21, and 24 of the final Office Action mailed November 22, 2004 for the above-identified patent application.

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## I. REAL PARTY IN INTEREST

The real party in interest is Comcast Cable Holdings, LLC ("the Assignee"), a corporation organized and existing under the laws of the State of Delaware, and having a place of business at 1500 Market Street, 34<sup>th</sup> Floor, Philadelphia, PA 19102-2148.

## II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant, the Appellant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## III. STATUS OF CLAIMS

Claims 1-8, 11-12, 15-21, and 24 are pending in this application. Claims 9-10, 13-14, 22-23, and 25-26 have been cancelled. The pending claims (claims 1-8, 11-12, 15-21, and 24) have been rejected in the final Office Action mailed November 22, 2004 and are the subject of this appeal. Of the pending claims, claims 1 and 15 are the only independent claims.

## IV. STATUS OF AMENDMENTS

There were amendments after the final Office Action mailed November 22, 2004.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

### **A. Independent Claim 1**

Independent claim 1 recites a system (10) for automatically scanning channels of a television (“TV”) (12) operable for displaying a plurality of channels of a channel lineup one at a time. (FIGS. 1-2; page 1, lines 3-6; page 2, lines 3-21; page 4, lines 1-9; and page 5, lines 14-25 of the specification.)

The system (10) includes a TV input device (14) operable for being controlled respectively by viewers (16) to enable the viewers to control the TV (12) to change the channels being displayed by the TV. (FIG. 1; page 2, lines 21-24; page 3, lines 3-6; page 4, line 21 through page 5, line 9 of the specification.)

The TV input device (14) is operable to enable each viewer (16) to associate preference settings (40, 42) of the viewer with the TV input device. The preference settings for each viewer (16) include channel display time period (44), channel scanning order (46), and program category filter (50) preference settings. (FIGS. 1 and 3; page 2, lines 12-18; page 3, lines 13-20; page 4, lines 1-9; page 5, lines 14-25; page 8, lines 1 through page 9, line 2 of the specification.)

The TV input device (14) in response to being controlled by a first one of the viewers (16) is operable with the TV (12) to automatically change the channels being displayed by the TV without any further viewer control of the TV input device. (FIGS. 1-2; page 2, lines 3-8; page 2, line 24 through page 3, line 2; page 5, line 9-25; page 6, line 6 through page 7, line 29 of the specification.) The TV input device (14) is operable with the TV (12) to automatically change the channels such that each channel in the channel lineup having content satisfying the first viewer’s program category filter preference setting (50) is automatically

displayed, in accordance with the first viewer's channel scanning order preference setting (46), one at a time by the TV (12) for the duration of the first viewer's channel display time period (44). (FIG. 1 and 3; page 2, lines 12-18; page 3, lines 13-20; page 8, line 1 through page 9, line 2 of the specification.)

**B. Independent Claim 15**

Independent claim 15 recites a method (20) for automatically scanning channels of a TV (12) operable for displaying a plurality of channels of a channel lineup one at a time. (FIGS. 1-2; page 1, lines 3-6; page 2, lines 3-18; page 3, lines 21-29; and page 5, lines 14-25 of the specification.)

The method (20) includes associating preference settings (40, 42) of viewers of the TV (12) with a TV input device (14). The preference settings (40, 42) for each viewer include channel display time period (44), channel scanning order (46), and program category filter (50) preference settings. (FIGS. 1 and 3; page 2, lines 12-18; page 3, lines 13-20; page 4, lines 1-9; page 5, lines 14-25; page 8, lines 1 through page 9, line 2 of the specification.)

The TV input device (14) is operable for being controlled respectively by viewers (16) to enable the viewers to control the TV (12) to change the channels being displayed by the TV. (FIG. 1; page 2, lines 21-24; page 3, lines 3-6; page 4, line 21 through page 5, line 9 of the specification.)

The method (20) further includes a first one of the viewers (16) controlling the TV input device (14) to have the TV (12) automatically change the channels being displayed by the TV. (FIGS. 1-2; page 2, lines 3-8; page 2, line 24 through page 3, line 2; page 5, line 9-25; page 6, line 6 through page 7, line 29 of the specification.) The channels are automatically changed such that each channel in the channel lineup having content satisfying

the first viewer's program category filter (50) preference setting is automatically displayed, in accordance with the first viewer's channel scanning order (46) preference setting, one at a time by the TV for the duration of the first viewer's channel display time period (44) without further action by the viewer. (FIG. 1 and 3; page 2, lines 12-18; page 3, lines 13-20; page 8, line 1 through page 9, line 2 of the specification.)

The method (20) further includes any one of the viewers (16) controlling the TV input device (14) to stop (32) the TV (12) from automatically changing the channels. (FIG. 2; page 3, lines 7-12; and page 6, line 16 through page 7, line 5 of the specification.)

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-8, 11-12, 15-21, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,005,084 issued to Skinner ("Skinner").

## **VII. ARGUMENT**

### **A. Claims 1-8, 11-12, 15-21, and 24 Are Patentable Under 35 U.S.C. § 103(a) Over U.S. Patent No. 5,005,084 issued to Skinner**

#### **1. The Claimed Invention**

As indicated above, the claimed invention as recited in independent claims 1 and 15, is directed to a system and an associated method for automatically scanning channels of a TV operable for displaying a plurality of channels of a channel lineup one at a time. The system includes a TV input device operable for being controlled respectively by viewers to enable the viewers to control the TV to change the channels being displayed by the TV.

The TV input device enables each viewer to associate preference settings of the viewer with the TV input device. The preference settings for each viewer include channel display time period, channel scanning order, and program category filter preference settings.

The TV input device in response to being controlled by a first one of the viewers is operable with the TV to automatically change the channels being displayed by the TV without any further viewer control of the TV input device such that each channel in the channel lineup having content satisfying the first viewer's program category filter preference setting is automatically displayed, in accordance with the first viewer's channel scanning order preference setting, one at a time by the TV for the duration of the first viewer's channel display time period.

#### **1A. Example of the Operation of the Claimed Invention**

As an example of the operation of the claimed invention, assume the channel lineup to include channels 1-100; and that the first viewer has associated the following preference settings with the TV input device: a "news" program category filter; an "ascending" channel scanning order; and a channel display time period of five seconds. Further assume, for example, that channels "2", "48", and "75" (e.g., NASA, CNN, FOX) are the channels in the channel lineup which have "news" content. In this case, upon being controlled by the viewer, the TV input device is operable with the TV to automatically scan from channel "2" to channel "48" (after displaying channel "2" for five seconds) to channel "75" (after displaying channel "48" for five seconds) without any further viewer control of the TV input device. Thus, the viewer does not have to manually use the TV input device each time the viewer wishes to change the channel from one channel to the next. Further, the viewer does not have to memorize which channels are "news" channels as the TV input device is operable with the TV to automatically change the channels without any further viewer

control of the TV input device such that each channel in the channel lineup having “news” content is automatically displayed.

2. **Skinner**

In the final Office Action, the Examiner posited that Skinner discloses a remote control 200 which meets the TV input device as claimed in independent claims 1 and 15 (citing col. 6, lines 30-43) except for the channel display period and the program category filter preference settings as claimed. The Examiner posited that Skinner teaches every conceivable additional remote control function, such as personal preference parameters, can be included into the remote control 200 (citing col. 8, lines 45-52). The Examiner indicated that channel display period and program category filter preference settings are well known functions in TV art. Consequently, the Examiner concluded that it would have been obvious to include these functions into the remote control 200 to perform the well known functions as claimed.

2A. **Personal Preference Channel Rings**

The cited col. 6 passage of Skinner discloses the use of “personal preference” rings. Skinner discloses that the personal preference rings are associated with different viewers and that the personal preference rings for each viewer include: (i) a parameter ring and (ii) a channel ring (see col. 1, lines 23-37 of Skinner). The personal preference parameter ring is used to automatically control TV parameters such as brightness, contrast, balance, etc. (see col. 1, lines 23-29 of Skinner). The personal preference channel ring is used to associate certain ones of the channels with a viewer (see col. 1, lines 29-37; and col. 2, lines 36-38 of Skinner).

Col. 1, lines 29-37 and col. 2, lines 36-38 of Skinner describe a personal preference channel ring as follows:

A personal preference channel ring is also accommodated in the state of the art complex television system . . . with a preferred channel automatically accessed, and the pressing of a channel forward or scan button causing the tuner to tune to the next channel specified in the personal preference channel ring.

\* \* \*

Preferably, the programmable memory means also stores a plurality of channel number indications for a plurality of channel preference rings.

As such, the general relevance of Skinner is the disclosure of associating different personal preference channel rings with different viewers.

In operation, upon the TV being powered up, the personal preference channel ring associated with the viewer is used to cause the TV to tune to “a desired (start-up) channel” (see col. 5, lines 24-39 of Skinner; and see block 335 “Sequence Next Channel Up/Down or Prog. Scan Memory” of FIG. 2 in Skinner.) The desired (start-up) channel is the “preferred channel” referenced in col. 1, lines 29-37 of Skinner as noted above.

In operation, upon the viewer pressing a channel-up or channel-down button on the remote control, a microprocessor 30, at block 335 (see block 335 in FIG. 2), causes the TV tuner 29 “to tune to the next channel (up or down) in the personal preference channel ring sequence” (see col. 5, lines 40-68 of Skinner).

FIGS. 4a and 4b of Skinner further describe the operation of the system including remote control 200. Initially, Skinner discloses that the remote control 200 takes no action “until either the TV power key 210e is pressed (i.e. toggled off then on) or the channel up or channel-down keys are pressed.” As such, Skinner defines “pressing” a key as causing the key to be “toggled of then on.” (See col. 6, lines 1-29 of Skinner.)

With respect to the “change channel” operation of remote control 200, Skinner further discloses that “pressing the channel-up and-down keys at 417c [block 417c of FIG. 4a: “Press Channel Up/Down”] causes the television 20 to sequence at 422c [block 422c of FIG. 4a: “Sequences Thru Channel Ring of Per. Pref. Level 1, 2, or 3”] through the desired channel ring.” (See col. 7, lines 19-21 of Skinner.)

Skinner provides a similar disclosure for the “change channel” operation of the complex remote control 100 and the operation of touching TV 20 directly without using a remote control. Namely, “at 415a or 415b [blocks 415a and 415b of FIG. 4a: “Press Channel Up/Down”], pressing the channel-up or channel-down keys on either the television 20 or first remote control transmitter device [i.e., the complex remote control 100] causes the television 20 at 420 [block 420 of FIG. 4a: “Sequences Thru Channel Ring Setup Before Previous Turn-Off”] to sequence through the channel ring which was previously accessed (before turn-off), until the desired channel is reached.” (See col. 6, lines 58-63 of Skinner.) Skinner further discloses that if access to a new personal preference ring is accessed, then “pressing of the channel-up or channel-down keys at 445b [block 445b of FIG. 4b: “Press Channel Up/Down”] causes the television to sequence through the new channel ring at 450b [block 450b of FIG. 4b: “Sequences Thru New Ch. Ring”]. (See col. 6, line 63 through col. 7, line 7 of Skinner.)

As such, the Applicant submits that Skinner discloses that pressing a channel button a first time causes the TV to tune from the preferred channel to a first channel of the channel ring sequence but that the channel button has to be pressed a second time to cause the TV to tune from the first channel to a second channel of the channel ring sequence. That is, Skinner discloses that the viewer has to press the channel button each time for the TV to tune through the channels of the channel ring sequence.

Support for the Applicant’s position that Skinner discloses that the viewer has to press the channel button each time to sequence from one channel to the next channel of the

channel ring is provided by the configuration of remote control 200. Skinner describes remote control 200 as being a “simple remote control device” which has “only five keys and a switch: volume up key 210a; volume down key 210b; channel up key 210c; channel down key 210d; TV power key 210e; and switch 280” (FIG. 1 element 200; and col. 2, lines 2-3; col. 4, lines 16-23; col. 4, lines 26-40; col. 8, lines 11-24 of Skinner). The switch 280 is used to designate the viewer; and the volume keys are used to control the volume. As such, the two channel keys 210c and 210d are the relevant keys for changing the channel. Thus, if the channels sequenced automatically from one channel to the next upon the viewer initially pressing a channel button, how would the channels be controlled to stop sequencing once a desired channel was reached? That is, how would the viewer need to control remote control 200 to stop the channels from sequencing? Skinner does not explicitly disclose how the channels stop sequencing if they automatically sequence from one channel to the next channel. Thus, the Applicant submits that Skinner teaches the conventional manual operation of a remote control in which a channel button is pressed each time to sequence from one channel to the next channel.

In the Advisory Action mailed March 1, 2005, the Examiner posited that Skinner meets the claimed invention because the channel ring is automatically sequenced when being selected (citing col. 7, lines 1-9 of Skinner). The Applicant noted above the relevant portion of Skinner cited in the Advisory Action, “pressing of the channel-up or channel-down keys at 445b causes the television to sequence through the new channel ring at 450b” (col. 7, lines 5-7 of Skinner). This portion of Skinner provides a disclosure for the “change channel” operation of the complex remote control 100 and the TV 20 (operation without using a remote control).

Although the complex remote control 100 and the TV 20 would have more buttons and functions than the simplified remote control 100, the description of the “change channel” operation for the complex remote control 100 and the TV 20 is the same description

of the “change channel” operation for the simplified remote control 200. Namely, in any case of using the TV 20 without a remote control, using complex remote control 100, and using simplified remote control 200, Skinner discloses that the pressing of the channel-up and-down keys causes the television 20 to sequence through the desired channel ring. (See, for example, col. 5, lines 47-50; col. 5, lines 64-68; col. 6, lines 6-10; col. 6, lines 58-63; col. 7, lines 5-7; col. 7, lines 19-21 of Skinner.) In the case of using the simplified remote control 200, the Applicant argued above that this disclosure means that the channel buttons have to be pressed each time to sequence from one channel to the next channel. As this disclosure is also used to describe the “change channel” operation of the TV 20 and the complex remote control 100, then, again, in either case, a channel button has to be pressed each time to sequence from one channel to the next channel.

Thus, the Applicant submits that Skinner teaches the conventional manual operation of a remote control in which a channel button is pressed each time to sequence from one channel to the next channel regardless of whether the viewer is using the complex remote control 100 or the simplified remote control 200. Consequently, although Skinner allows a subset of all the available channels to be contained in the personal preference channel ring of a viewer, Skinner suffers from the disadvantage noted on page 1, lines 25-28 in the Background Art section of the Applicant’s specification. Page 1, lines 25-28 of the Applicant’s specification recites, “A problem with this procedure is that the viewer must physically control the remote control or other standard TV input device to scan through the channels until a desired channel is located.”

## **2B. Program Category Filter Preference Settings**

As noted above, the Examiner indicated that program category filter preference settings is a well known function in the TV art. As such, Skinner does not explicitly teach or suggest changing channels as a function of content satisfying a program category filter

preference setting. As described above, Skinner simply teaches changing channels as a function of which channels are selected by the viewer for inclusion in the viewer's personal preference channel ring.

### **3. The Claimed Invention Compared to Skinner**

The claimed invention generally differs from Skinner in that in the claimed invention the TV input device in response to being controlled by a viewer automatically changes the channels being displayed by the TV without any further viewer control of the TV input device such that each channel in the channel lineup having content satisfying the viewer's program category filter preference setting is automatically displayed, in accordance with the viewer's channel scanning order preference setting, one at a time by the TV for the duration of the viewer's channel display time period.

As such, the claimed invention differs from Skinner in that the channels are automatically changed from one channel to the next channel without further viewer control. In contrast, as noted above, Skinner teaches that the channels are changed from one channel to the next channel each time the viewer presses a remote control button.

Further, the claimed invention differs from Skinner in that the channels are automatically changed as a function of the content of the channels. In contrast, as noted above, Skinner teaches that the channels are changed as a function of which channels are selected by the viewer for inclusion in a personal preference channel ring.

Therefore, independent claims 1 and 15 are patentable under 35 U.S.C. § 103(a) over Skinner. Claims 2-8, 11-12, 16-21, and 24 depend from one of independent claims 1 and 15 and include the limitations therein. Thus, claims 1-8, 11-12, 16-21, and 24 are patentable under 35 U.S.C. § 103(a) over Skinner.

**Conclusion**

In view of the foregoing, the Applicant respectfully requests that the Board rules that claims 1-8, 11-12, 16-21, and 24 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,005,084 issued to Skinner.

A check covering the fee of \$500.00 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) is enclosed. Please charge any additional fee or credit any overpayment in connection with this filing to our Deposit Account No. 02-3978.

Respectfully submitted,

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Enclosure - Appendices - 6 pages



### VIII. CLAIMS APPENDIX

1. A system for automatically scanning channels of a television operable for displaying a plurality of channels of a channel lineup one at a time, the system comprising:

a television input device operable for being controlled respectively by viewers to enable the viewers to control the television to change the channels being displayed by the television;

wherein the television input device is operable to enable each viewer to associate preference settings of the viewer with the television input device, the preference settings for each viewer including channel display time period, channel scanning order, and program category filter preference settings;

wherein the television input device in response to being controlled by a first one of the viewers is operable with the television to automatically change the channels being displayed by the television without any further viewer control of the television input device such that each channel in the channel lineup having content satisfying the first viewer's program category filter preference setting is automatically displayed, in accordance with the first viewer's channel scanning order preference setting, one at a time by the television for the duration of the first viewer's channel display time period.

2. The system of claim 1 wherein:

the television input device is operable with the television to automatically change the channels being displayed by the television until one of the viewers controls the television input device to stop the television from changing the channels.

3. The system of claim 1 wherein:

the television input device is a remote television input device operable for being controlled respectively by the viewers to enable the viewers to remotely control the television.

4. The system of claim 1 wherein:  
the television input device includes a remote control.

5. The system of claim 1 wherein:  
the television input device includes a wireless keyboard.

6. The system of claim 1 wherein:  
the television input device includes an onscreen keyboard.

7. The system of claim 1 wherein:  
the television input device is operable with the television to pause the television from automatically changing the channels in response to one of the viewers controlling the television input device to pause the channel changing.

8. The system of claim 7 wherein:  
the television input device is operable with the television to resume the television to continue automatically changing the channels in response to one of the viewers controlling the television input device to resume the channel changing.

11. The system of claim 1 wherein:  
the preference settings for each viewer further include a program information preference setting, wherein the television input device is operable with the television to display program information associated with each displayed channel in accordance with the viewer's program information preference setting.

12. The system of claim 1 wherein:  
the television input device is operable to enable the viewers to select a subset of the channels in the channel lineup to be automatically changed.

15. A method for automatically scanning channels of a television operable for displaying a plurality of channels of a channel lineup one at a time, the method comprising:

associating preference settings of viewers of the television with a television input device, the preference settings for each viewer including channel display time period, channel scanning order, and program category filter preference settings, wherein the television input device is operable for being controlled respectively by viewers to enable the viewers to control the television to change the channels being displayed by the television;

a first one of the viewers controlling the television input device to have the television automatically change the channels being displayed by the television such that each channel in the channel lineup having content satisfying the first viewer's program category filter preference setting is automatically displayed, in accordance with the first viewer's channel scanning order preference setting, one at a time by the television for the duration of the first viewer's channel display time period without further action by the viewer; and

any one of the viewers controlling the television input device to stop the television from automatically changing the channels.

16. The method of claim 15 wherein:

the television input device is a remote television input device operable for being controlled by the viewers to enable the viewers to remotely control the television.

17. The method of claim 15 wherein:

the television input device includes a remote control.

18. The method of claim 15 wherein:

the television input device includes a wireless keyboard.

19. The method of claim 15 wherein:

the television input device includes an onscreen keyboard.

20. The method of claim 15 further comprising:  
any one of the viewers controlling the television input device to pause the television from automatically changing the channels.
21. The method of claim 20 further comprising:  
any one of the viewers controlling the television input device to resume the television to continue automatically changing the channels.
24. The method of claim 15 wherein the preference settings for each viewer further include a program information preference setting, wherein the television displays the program information associated with each displayed channel in accordance with the viewer's program preference setting as the channels are being automatically changed.

**IX. EVIDENCE APPENDIX**

None.

**X. RELATED PROCEEDINGS APPENDIX**

None.